

Members

Sen. Thomas Wyss, Chairman
Sen. Charles Meeks
Sen. Timothy Skinner
Sen. John Broden
Rep. Tiny Adams
Rep. David Crooks
Rep. Robert Cherry
Rep. Timothy Neese



PUBLIC SAFETY MATTERS EVALUATION COMMITTEE

LSA Staff:

Valerie Ruda, Fiscal Analyst for the Committee
Susan Montgomery, Attorney for the Committee

Authority: IC 2-5-21-10

**Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554**

MEETING MINUTES¹

Meeting Date: September 24, 2003
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431, Senate Finance.
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Sen. Thomas Wyss, Chairman; Sen. Charles Meeks; Sen. Timothy Skinner; Rep. David Crooks; Rep. Robert Cherry.

Members Absent: Sen. John Broden; Rep. Tiny Adams; Rep. Timothy Neese.

Chairman Thomas Wyss called the fourth meeting of the Public Safety Matters Evaluation Committee to order at 10:10 a.m. After making introductions, Chairman Wyss announced the Committee will hold discussion on a preliminary draft of legislation pertaining to the use of fireworks and indoor pyrotechnics and whether HB 1379 (2000) regarding impaired drivers is valid for revival.

Fireworks and Indoor Pyrotechnics

Fire Marshal Tracy Boatwright stated that Preliminary Draft 3122 (2004) addresses the use of pyrotechnics so that a fatal incident similar to the one in the Rhode Island nightclub does not occur in Indiana.

Mara Snyder, Staff Attorney for the Office of the State Fire Marshal, described provisions of the preliminary draft (Exhibit A). Ms. Snyder also provided to the Committee copies of *NFPA 1126 Standard for the Use of Pyrotechnics before a Proximate Audience* (Exhibit B). A discussion ensued regarding the preliminary draft's \$1 million minimum insurance requirements for damage to persons and damage to property from fireworks or indoor pyrotechnics displays. The

¹Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Committee expressed concerns regarding:

- The insurance premium's cost and if that would be prohibitive to small operators. Ms. Snyder noted members of the pyrotechnics industry suggested the \$1 million amount in a previous meeting of the Committee. Senator Meeks requested that an estimated cost of the premium be provided to the Committee.
- Responsibility for carrying the insurance depending on whether a public or private operator fires the display. Ms. Snyder stated the operator usually carries the insurance, although the statute does not address that question specifically pertinent to public entities, who already carry some liability insurance.
- Self-insureds and how this requirement would affect those entities.

Jody Woods, General Counsel for the Indiana Association of Cities and Towns, stated that usually the operator carries the insurance, but that she is not aware of insurance coverage when a municipality is the operator of a public display of fireworks.

The Committee also discussed increasing penalties for injury or death caused by pyrotechnics beyond those included in the preliminary draft.

Captain Ron Lovett of the Indianapolis Fire Department commented that his department is not always aware of public displays of indoor pyrotechnics, as many amateur operators do not make a test firing.

Tom Hanify of the Professional Firefighters Union of Indiana spoke in support of the Fire Marshal's efforts towards the preliminary draft of legislation and licensing of operators. Mr. Hanify also stated that he felt that his members' concerns are more with requiring notification for displays.

In response to questions from Senator Meeks about the lack of licensing required for operators, Marshal Boatwright spoke in favor, but noted that a change to the statute would be required. Chairman Wyss asked that licensing of operators be added to the preliminary draft and asked that the penalty be raised to a Class D felony. He also requested copies of the preliminary draft be sent to the Association of Indiana Counties and the Indiana Association of Cities and Towns so they may comment and suggest changes at the next meeting.

Senator Lubbers noted that the total amount of insurance required is \$2 million, \$1 million each for personal and property damage, as stated in the draft.

Thomas Fruechtenicht, attorney at law, stated that he would furnish the insurance premium cost information to the Committee.

Impaired Drivers

Marilyn Cage, Legislative Liaison for the Bureau of Motor Vehicles (BMV), presented the BMV's review of HB 1379 (2000) and concluded that the bill's provisions are currently addressed in statute. Ms. Cage also spoke about the importance of public awareness and education regarding driver impairment and suggested the agency, non-profit, and private organizations work together to make a bigger positive impact.

In response to questions from the Committee, Ms. Cage noted that: there is no specific penalty for filing a false report of potential impairment with the BMV; she believes the BMV's checks and balances are adequate for discouraging false reports; and reports are processed by the medical section in Indianapolis, not at the local branches. Senator Meeks requested that a penalty for unfounded reports be included if a bill is introduced; Chairman Wyss concurred.

Linda Tritch, certified driver rehabilitation specialist at Parkview Hospital in Fort Wayne, described issues involved with rehabilitation programs, including lack of insurance reimbursement for the programs. In response to questions from the Committee, Ms. Tritch noted that the BMV is the final authority for determining a driver's impairment or restriction and that federal regulations prohibit rehabilitation programs, as well as physicians, from furnishing personal health-related information to the BMV without the driver signing a consent form. A discussion ensued concerning the recent federal HIPAA privacy restrictions and how that law makes the reporting language in the 2000 bill outdated.

Chairman Wyss suggested the Committee produce a resolution to encourage various organizations concerned with driving impairments to improve or increase education and awareness of impaired driving.

Senator Meeks expressed his concern regarding a Bureau of Alcohol, Tobacco, and Firearms change effective October 1 concerning gun purchases. Chairman Wyss acknowledged his concern but noted that the Committee could not alter a federal decision.

The Chairman then announced the next meeting will take place on October 16th at 10:00 a.m. at the State House. Agenda items will include:

- The preliminary draft regarding pyrotechnics, with comments sought from the Association of Indiana Counties and the Indiana Association of Cities and Towns.
- A resolution for impaired driver public awareness/education with comments from the Indiana State Medical Association.
- A report from the BMV regarding motor vehicle titling and bonding with a potential preliminary draft.
- The standardization of firefighting training, encouragement of the State Emergency Management Agency and the State Fire Marshal to establish statewide standards, and regional firefighting training sites.

Chairman Wyss adjourned the meeting at 11:40 a.m.